



City of Norfolk

Office of the City Manager

C: Dir., Norfolk Department of Public Health

September 19, 2006

To the Honorable Council
City of Norfolk, Virginia

Re: New Chapter 43.1 Relating to Tattoo
Parlor Permits

Ladies and Gentlemen:

I. **Recommended Action:** Adopt Ordinance

II. **Overview**

This agenda item, which would create a new chapter in the Norfolk Municipal Code Chapter 43.1 relating to tattoo parlor permits was continued to September 19, 2006 by City Council at its meeting on August 29, 2006.

III. **Analysis**

A. **General**

This agenda item is an ordinance creating a new chapter to the City Code that relates to the issuance of a tattoo parlor permit by the Health Director prior to the operation of a tattoo parlor in the City. This chapter sets forth specific protocols to be followed to minimize impacts to public health and safety.

B. **Fiscal**

N/A

C. **Environmental**

N/A

D. **Community Outreach/Notification**

Public notification for this item was done through the City of Norfolk's regular agenda notification process.

IV. Conclusion

This chapter sets forth specific protocols to be followed to minimize impacts to public health and safety; therefore it is recommended that the City Council adopt the attached ordinance.


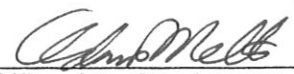
Respectfully submitted,



Regina V.K. Williams
City Manager

Coordination/Outreach

This letter has been coordinated with the Norfolk Department of Public Health and the City Attorney's Office.

Form and Correctness Approved: Contents Approved: By 
Office of the City Attorney

NORFOLK, VIRGINIA

By
DEPT. **ORDINANCE No.**

R-1 AN ORDINANCE TO REPEAL SECTION 29-64 AND TO AMEND AND REORDAIN THE NORFOLK CITY CODE, 1979, BY ADDING ONE NEW CHAPTER NUMBERED 43.1 PERTAINING TO TATTOO PARLORS TO PROVIDE REGULATIONS GOVERNING THE OPERATION OF TATTOO PARLORS.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Section 29-64 of the Norfolk City Code, 1979, regarding the tattooing prohibition, is hereby repealed.

Section 2:- That the Norfolk City Code, 1979, is hereby amended and reordained by adding one new chapter numbered and reading as follows:

CHAPTER 43.1
TATTOO PARLORS

ARTICLE I.
GENERAL.

Sec. 43.1-1. Violations of Chapter.

It shall be unlawful for any person to violate any provision of this chapter, or to cause or allow such violation. A violation of any provision of this chapter shall constitute a class 1 misdemeanor. Each day of violation shall constitute a separate offense.

Sec. 43.1-2. Exemptions.

(a) The provisions of this chapter shall not apply to persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic.

(b) The provisions of this chapter shall not apply to the puncturing of the outer perimeter or lobe of the ear with a pre-sterilized single-use and clasp-ear piercing system.

Sec. 43.1-3. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

Antiseptic shall mean an agent that inhibits the growth and multiplication of, or destroys, disease-causing microorganisms on the skin or mucosa.

Aseptic techniques shall mean methods used in piercing procedures to prevent contamination of a pierced area by microorganisms.

Autoclave shall mean a sterilization device, which meets the standards of American Society for Mechanical Engineering (ASME).

Branding shall mean any method of placing designs, letters, scrolls, figures or any other marks upon the skin by burning with a hot iron or instrument.

Client shall mean a patron of a tattoo parlor of the person receiving a tattoo.

Communicable Disease shall mean a disease that is transmissible by direct or indirect contact with infection from one person to another.

Contaminated shall mean the presence of microorganisms on inanimate objects.

Director shall mean the Director of the Norfolk Department of Public Health or his designee.

Department shall mean the Norfolk Department of Public Health.

Disinfection shall mean the destruction of pathogenic microorganisms on inanimate objects or

surfaces, thereby rendering these objects sanitary for use or handling.

Establishment shall mean a tattoo parlor.

Equipment shall mean all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a tattoo parlor.

Gloves shall mean single use, sanitary, disposable medical grade gloves, such as triple washed latex examination gloves or vinyl gloves.

Hot water shall mean water, which attains and maintains a temperature of at least one- hundred and ten degrees Fahrenheit (110° F).

Imminent health risk shall mean a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury, illness or disease based on the number of potential affected persons and the nature, severity and duration of the anticipated injury, illness or disease.

Injury shall mean any unexpected complication, damage, harm, hurt, or impairment to a person's body structure or function that is caused by tattooing.

Instrument shall mean hand pieces, needles, and other tools that may come in contact with a person's body or be exposed to body fluids during tattooing procedures.

Minor shall mean any person who has not attained the age of 18 years.

Operator shall mean any person that owns, operates, manages or takes responsibility for the operation of a tattoo parlor.

Parent shall mean a natural parent, legal guardian, or legal custodian of a minor.

Person shall mean an individual, firm, owner, sole proprietorship, partnership, corporation, an incorporated association, company, limited liability company, agent or other legal entity.

Reportable disease shall mean all communicable diseases required by the laws of the Commonwealth of Virginia to be reported to health officials.

Sanitary shall mean free of contaminants and pathogenic microorganisms.

Sanitation shall mean the application cumulative heat or chemicals on cleaned surfaces that, when evaluated for efficacy, yield a reduction of five (5) logs, which is equal to a 99.99% reduction of pathogenic microorganisms.

Sanitizer shall mean disinfectant or germicide registered with the United States Environmental Protection Agency, or an approximately 1:10 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle.

Scarification shall mean to intentionally make scratches or wounds on or incisions in the skin.

Single use shall mean products or items that are intended for one-time, one-person use and are disposed of after use on each person such as, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing and tattooing needles, scalpel blades, protective gloves, or ink.

Sink shall mean a lavatory equipped with hot and cold running water under pressure.

Spore shall mean a highly resistant dehydrated form of a bacterial cell, such as those of the genus *Bacillus*.

Sterile shall mean free of live bacteria or other microorganisms including highly resistant bacterial endospores.

Sterilization shall mean the destruction of all forms of microbial life.

Support animal shall mean a trained animal such as a Seeing Eye dog that accompanies a person with a disability to assist in managing the disability and enables the person to perform functions that the person would otherwise be unable to perform.

Tattoo shall mean designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin, including permanent makeup and permanent jewelry, by the aid of needles or any other instruments designed to touch or puncture the skin.

Tattooer shall mean the person performing the tattooing.

Tattooing shall mean the act of placing a tattoo upon or under the skin of another person.

Tattoo parlor shall mean any place in which is offered, performed or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent makeup and permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

Universal precautions shall mean the current set of guidelines and controls published by the Center for Disease Control and Prevention (CDC), which includes specific recommendations for the use of gloves, masks, protective eye wear and/or other protective equipment when contact with blood or body fluids containing blood is anticipated. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV; and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood- and body fluid-contaminated products.

Sec. 43.1-4. Enforcement.

The director shall enforce the provisions of this chapter.

Sec. 43.1-5. Prohibition on Scarification and Branding.

It shall be unlawful for any person to perform, undertake, permit, cause or allow any scarification or branding of any human.

Sec. 43.1-6. Temporary or Mobile Tattoo Parlors Prohibited.

It shall be unlawful for any person to operate or use, any tattoo parlor at any temporary location or in any mobile configuration or location.

Sec. 43.1-7. Liability of Operator of Tattoo Parlor.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by an officer, director, manager or other agent or employee of any operator of a tattoo parlor, if said act is committed or omission is made with the authorization, knowledge, approval or acquiescence of the operator, shall be deemed and held to be the act of such operator and said operator shall be punishable in the same manner as if said act or omission had been done or omitted by such operator personally.

Sec. 43.1-8. Inspections.

The director shall conduct periodic inspections of every tattoo parlor, at such times the director sees fit, for the purpose of determining compliance with the provisions of this chapter. Refusal of an operator or tattooer to allow the director to conduct an inspection shall be grounds for the suspension of a permit to operate a tattoo parlor.

Secs. 43.1-9-10. Reserved.

ARTICLE II.
PERMITS.

Sec. 43.1-11. Tattoo Parlor; Permit Required.

(a) It shall be unlawful for any person to operate a tattoo parlor without first obtaining a permit from the director. The operator of a tattoo parlor shall conspicuously post or display the tattoo parlor permit for public viewing. Proof of an applicable permit shall be the burden of the operator.

(b) It shall be unlawful for any person to engage in tattooing at an establishment that has no permit.

Sec. 43.1-12. Tattoo Parlor Permit; Application.

(a) An application for a permit to operate a tattoo parlor shall be submitted to the director on forms provided by the director.

(b) Each application shall include:

(1) The operator's full name, mailing address, phone number, and a statement identifying the operator(s);

(2) If the operator is a partnership, the name, mailing address and phone number of each partner; or if the operation is a corporation, the name, mailing address and phone number for each officer and the registered agent.

(3) The establishment name, location, and the types of tattoo services and other services offered;

(4) The number of tattoo stations;

(5) The signature of the operator or operators; and

(6) Such other pertinent information as requested on such forms.

(c) If, more than one establishment will be operated by the operator; a separate application and fees shall be required for each location.

Sec. 43.1-13. Tattoo Parlor; Plan Review.

An applicant for a tattoo parlor permit shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the director, as part of the permit application process. This shall include equipment and finish schedules. A plan review fee of \$200 shall be paid prior to the plan review occurring.

Sec. 43.1-14. Tattoo Parlor Permit Fees;
Expiration; Renewal.

The fee for a tattoo parlor permit shall be \$1,800.00.

The applicant shall pay the fee for each tattoo parlor permit. The permit fee shall be for a one-year licensing period from January 1 to December 31. All permits issued, during the course of a calendar year shall expire on December 31 of that year, regardless of the date issued unless revoked prior thereto as provided for in this chapter. For any person required to obtain a permit under the provisions of this section after the first day of January, the permit fee shall be prorated as follows: between January 1st and on or before June 30th, the full permit fee shall be paid; between July 1st and on or before December 31st of the licensing year, one half of the permit fee shall be paid.

Sec. 43.1-15. Tattoo Parlor Permit; Issuance.

(a) Upon receipt of a complete application for a permit and the permit fee, the director shall make an inspection of the proposed establishment to determine if the proposed establishment complies with the provisions of this chapter and any other applicable law, regulation or standard. If the application and establishment inspection results comply with the

provisions of this chapter and all other applicable laws, regulations and standards, a permit to operate a tattoo parlor shall be issued.

(b) A permit issued hereunder is strictly limited to the operator and establishment specified in the permit.

(c) A permit shall be non-transferable from one operator to another or from one establishment to another.

(d) Any change of operator or establishment location shall require a new application and permit, with payment of fees therefore.

(e) The director may refuse to issue a permit if the operator:

(1) Has been convicted in this or any other state of a crime related to tattooing or relating to the operation of a tattoo parlor; or

(2) Has violated provisions of this chapter, or any local, state or federal law, regulation or standards which are determined by the director to pose imminent health risk to the operator, tattooers, employees or the public.

(f) The director may set forth specific conditions to be complied with in each permit issued.

Sec. 43.1-16. Suspension and Revocation of Tattoo Parlor Permit.

(a) The director may, at any time, after giving 5 calendar days' written notice and an opportunity to be heard to the operator, suspend for such length of time as he may deem appropriate, or revoke, any tattoo parlor permit for any of the following reasons:

(1) Fraud or misrepresentation by the operator in the procurement of the permit;

(2) Any violation of any applicable local, state or federal law, regulation or standard;

(3) Failure to comply with the general or specific terms of the permit; and

(4) Any illegal or unlawful acts caused, allowed or permitted to be done by the operator or his agent.

(b) The notice referred to in this section may be hand-delivered to the operator, mailed to the last known address of the operator or to the address of the operator given by him on the application for a permit, or posted on the point(s) of egress to the establishment.

(c) Notwithstanding subsections (a) and (b) of this section, in the event the director determines that there has been a violation of the permit conditions or there has been a violation of any local, state or federal law, regulation or standard which constitutes an imminent, substantial or compelling threat to public health or safety, the director may dispense with the notice requirement and either close the establishment immediately or issue an order excluding the operator or tattooer from the establishment until such time the director determines there is no longer a public health or safety issue.

(d) It shall be unlawful to continue to operate or cause, permit or allow tattooing after the operator receives notice of the suspension or revocation or after immediate closure by the director. It shall also be unlawful for a tattooer to perform tattooing on any person after suspension, revocation or immediate closure by the director.

Sec. 43.1-17. Suspended Permit; Reinstatement.

Any operator whose permit has been suspended may apply for reinstatement of such permit. The application shall provide the same information as for a new permit and shall also include a statement signed by the operator or tattooer that the conditions causing suspension of the permit have been corrected. A reinstatement fee of \$1,800.00 shall be paid at time of application.

Sec. 43.1-18. Revoked Permit; Application for New Permit.

Any operator whose permit has been revoked by the director does not qualify for reinstatement. The operator or practitioner must make an application for a new permit and cannot obtain a new permit until at least six months have passed since the date of the revocation notice.

Secs. 43.1-19-20. Reserved.

ARTICLE III.
REGULATORY REQUIREMENTS.

Sec. 43.1-21. Operator's Requirements.

A. A tattoo parlor must be in a permanent building or portion of a building which must be in a location permissible under the Zoning Ordinance of the City of Norfolk and in conformance with the Building Code of the City of Norfolk. The establishment shall be separated from any living quarters by complete floor to ceiling partitioning and shall contain no access to living quarters.

B. The establishment shall be maintained in a clean and orderly manner.

C. All facilities shall have a blood spill clean-up kits in the work area.

D. Work surfaces shall be cleaned with an EPA registered, hospital grade disinfectant. Surfaces that come in contact with blood or other body fluids shall be immediately disinfected with an EPA registered germicide solution. Appropriate personal protective equipment shall be worn during cleaning and disinfecting procedures.

E. Cabinets for the storage of instruments, dyes, pigments, single use article, carbon stencils and other utensils shall be provided for each operator and shall be maintained in a sanitary manner.

F. Bulk single-use articles shall be commercially packaged and handled in such a way as to protect them from contamination

G. All materials applied to the human skin shall be from single-use article or transferred from bulk containers to single use containers and shall be disposed of after each use.

H. The walls, ceilings, and floors shall be kept in good repair. The tattooing area shall be constructed of smooth, hard, light-colored surfaces that are non-porous, free of open holes or cracks, light colored, and easily cleaned.

I. The establishment shall have adequate lighting of at least 50 foot-candles of illumination in the tattooing and sterilization areas.

J. Adequate mechanical ventilation shall be provided in the establishment.

K. The establishment shall be equipped with hand-cleaning facilities for its personnel with unobstructed access to the tattooing area such that the tattooer can return to the tattooing area without having to touch anything with their hands. Hand-cleaning facilities shall be equipped either with hot and cold or tempered running water under pressure and liquid germicidal soap, or with a sanitizing solution to clean hands. Hand-cleaning facilities shall be equipped with single-use towels or mechanical hand drying devices; and a covered refuse container. Such facilities shall be kept clean and in good repair.

L. Animals are not permitted in the establishment except for guide or service animals accompanying persons with disabilities. No animals are allowed in the tattooing or sterilization areas.

M. Use of tobacco products and consumption of alcoholic beverages shall be prohibited in the tattooing or sterilization area.

N. No food or drink shall be stored or consumed in the tattooing or sterilization areas except for client's use in order to sustain optimal physical condition; such food and drink must be individually packaged.

O. If tattooing is performed where cosmetology services are provided, it shall be performed in an area that is separate and enclosed.

P. Restrooms shall be available in the establishment. Each restroom shall be equipped with a sink with hot and cold running water, which passes through a mixing type of faucet. Each restroom shall be supplied with soap, toilet tissue, single use paper towels and a covered waste receptacle. Restrooms shall have self-closing doors.

Q. At least one waste receptacle shall be provided in each station area. Solid waste, including infectious waste, shall be collected, stored and disposed of in a manner and frequency that complies with federal, state and local regulations.

R. Other equipment necessary for providing tattoos and for cleaning and sterilizing instruments shall include:

a. A one compartment sink with hot and cold running water under pressure

b. An autoclave

c. Storage cabinets or containers for sterilized instruments and supplies and separate approved storage for soiled or waste products.

S. Water supplies and sewage disposal shall comply with applicable provisions of the City Code.

Sec. 43.1-22. Tattooers Responsibilities

A. All tattooers shall wear clean outer garments, maintain a high degree of personal

cleanliness, and conform to hygienic practices while on duty.

B. All tattooers shall clean their hands thoroughly using hot or tempered water with a liquid germicidal soap or use sanitizing solution to clean hands before and after tattooing and as necessary to remove contaminants.

C. All tattooers must wear single-use examination gloves while assembling tattooing instruments and while tattooing.

D. Each time there is an interruption in service, each time the gloves become torn or perforate, or whenever the ability of the gloves to function as a barrier is compromised;

i. Gloves shall be removed and disposed of;
and

ii. Hands shall be cleaned and a fresh pair of gloves used.

E. Tattooers shall use standard precautions while tattooing. A tattooer diagnosed with a communicable disease shall provide to the director a written statement from a health care practitioner that the tattooer's condition no longer poses a threat to public health.

F. Tattooers with draining lesions on their hands or face shall not be permitted to work until cleared by a health-care professional.

G. The area of the client's skin to be tattooed shall be cleaned with an approved germicidal soap according to label directions.

H. Tattooing inks and dyes shall be placed in a single-use disposable container for each client. Following the procedure, the unused contents and container shall be properly disposed of.

I. If shaving is required, razors shall be single-use and disposed of in a puncture resistant container.

J. Each tattooer performing any tattooing procedures in the parlor shall have the education, training and experience, or any combination thereof, to practice aseptic technique and prevent the transmission of blood borne pathogens. All procedures shall be performed using aseptic technique.

K. A set of individual, sterilized needles shall be used for each client. Single use disposable instruments shall be disposed of in a puncture resistant container.

L. Used, non-disposable instruments shall be kept in a separate, puncture resistant container until brush scrubbed in hot water soap and then sterilized by autoclaving. Contaminated instruments shall be handled with disposable gloves.

M. Used instruments that are ultrasonically cleaned shall be rinsed under running hot water prior to being placed in the used instrument container.

N. Used instruments that are not ultrasonically cleaned prior to being place in the used instrument container shall be kept in a germicidal or soap solution until brush scrubbed in hot water and soap and sterilized by autoclaving.

O. The ultrasonic unit shall be sanitized daily with germicidal solution.

P. Non-disposable instruments shall be sterilized and shall be handled and stored in a manner to prevent contamination. Instruments to be sterilized shall be sealed in bags made specifically for the purpose of autoclave sterilization and shall include the date of sterilization. If non-transparent bags are utilized, the bag shall also list the contents.

Q. Autoclave sterilization bags with a color-code indicator which changes color upon proper

sterilization shall be utilized during the autoclave sterilization process.

R. Instruments shall be placed in the autoclave in a manner to allow live steam to circulate around them.

S. Contaminated disposable and single use items shall be disposed of in accordance with state regulations regarding disposal of biological hazardous materials.

T. Any injury or complaint of injury, suspected infection, or any reportable diseases resulting from a tattoo that became known to the operator or tattooer shall be reported to the director within twenty-four hours.

Sec. 43.1-23. Client qualifications, disclosures, and records.

A. Except as permitted in §18.2-371.3 of the Code of Virginia, a client must be a minimum of 18 years of age and shall present at the time of tattooing a valid, government issued, positive identification card including, but not limited, a driver's license, passport, or military identification. The identification must contain a photograph of the individual and a printed date of birth.

B. The tattooer shall verify and document in the permanent client record the client's age, date of birth, and the type of identification provided.

C. No person may be tattooed who appears to be under the influence of alcohol or drugs.

D. Tattooing shall not be performed on any skin surface which manifests any evidence of unhealthy conditions such as rashes, boils, infections, or abrasions.

E. Before receiving a tattoo, each client and client's parent or guardian, if applicable, shall be informed verbally and in writing, using the Client

Disclosure Form prescribed by the State Board for Barbers and Cosmetology, about the possible risk and dangers associated with the application of each tattoo. Signatures of both the client and the tattooer shall be required on the Client Disclosure Form to acknowledge receipt of both the verbal and written disclosures.

F. The establishment shall maintain proper records for each client. The information shall be permanently recorded and made available for examination by the director. Records shall be maintained at the establishment for at least two years following the date of the last entry. The permanent records shall include the following:

1. The name, address, and telephone number of the client;
2. The date tattooing was performed;
3. The client's age, date of birth, and a copy of the positive identification provided to the tattooer;
4. The specific color or colors of the tattoo and, when available, the manufacturer's catalogue or identification number of each color used;
5. The location on the body where the tattooing was performed;
6. The name of the tattooer;
7. A statement that the client has received a copy of applicable written care instructions, and that the client has read and understands the instructions; and
8. The signature of the client, and if applicable, the parent or guardian.

Section 3:- That this ordinance shall be in effect from and after its adoption.